

Constitution

Tennis New South Wales Ltd

ACN 000 011 558

Amended 20 October 2015

Middletons

Melbourne Office
Ref: CEC.DTX.10014211

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Corporations Act
A Company Limited by Guarantee

CONSTITUTION

OF

TENNIS NEW SOUTH WALES LIMITED

1. Nature of the Company

- (a) The Company is a public company limited by guarantee.
- (b) The name of the Company is Tennis New South Wales Ltd.

2. Definitions and interpretation

2.1 Definitions

In this Constitution unless the contrary intention appears:

Appointed Directors means Directors appointed by the Board under clause 14.2;

Association means any association comprised of 2 or more Tennis clubs (which clubs are not directly registered with the Company) located within New South Wales;

Auditor means the Company's auditor from time to time;

Board means the board of Directors of the Company;

Chief Executive Officer means the chief executive officer of the Company appointed under clause 19;

Club means a Tennis club located in New South Wales;

Company means Tennis New South Wales Ltd ACN 000 011 558;

Constitution means this constitution of the Company as amended, supplemented or replaced from time to time;

Corporations Act means the *Corporations Act 2001 (Cth)*;

Court Operator means an accredited Tennis coach, an individual or group who conducts Tennis related activities, in New South Wales;

Director means any person occupying the position of director of the Company;

Honorary Life Member means a Member elected under clause 6.7;

Independent Director means a person elected to the position of President or Vice-President and each person appointed to the position of Director under clause 14.2 that is not a Representative, employee or officer of the Company or a Member;

Member means a member of the Company;

Office means the registered office for the time being of the Company;

President means the person elected to the position of president of the Company under clause 14;

Register means the register of Members;

Registered Tennis Player means a Tennis player whose name appears in the Company's register of Tennis players. Tennis players may register:

- (a) directly with the Company; or
- (b) with a Member (other than an Honorary Life Member);

Related Body Corporate has the meaning given to the term in the Corporations Act;

Representative means a natural person nominated by a Member under clause 9;

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of the joint secretaries;

Special Resolution means a resolution:

- (a) of which notice as required in accordance with the Corporations Act has been given; and
- (b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution (or any other majority specified by the Corporations Act);

Tennis means the game of tennis, as regulated by the Rules of Tennis, as published by the International Tennis Federation from time to time;

Tennis Australia means Tennis Australia ACN 61 006 281 125, the governing body of Tennis in Australia"

Tennis Country means a management committee of the Company administering tennis activities in the area consisting of the six regional areas of New South Wales outside the boundaries of metropolitan Sydney;

Tennis Sydney means a management committee of the Company administering tennis activities in the metropolitan area of Sydney; and

Vice President means the person elected to the position of vice president of the Company under clause 14.

2.2 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) a reference to:

- (i) any statute, ordinance, code or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments or a replacement of any of them by any government body;
 - (ii) any officer of the Company includes any person acting for the time being as such an officer; and
 - (iii) writing includes any mode of representing or reproducing words in a tangible or visible form, and includes facsimile transmission and email;
- (b) words importing:
- (i) the singular include the plural and vice versa;
 - (ii) a gender includes the other gender; and
 - (iii) natural persons include partnerships, associations and corporations;
- (c) headings do not affect the construction of this Constitution;
- (d) if a word or phrase is defined, cognate words and phrases have corresponding meanings;
- (e) an expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that or any other Part or Division has, in any part of this Constitution that deals with a matter dealt with by the relevant Part or Division, the same meaning as applies in or in respect of that Part or Division; and
- (f) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)".

2.3 Replaceable Rules

Each of the provisions of the sections or sub-sections of the Corporations Act which would but for this clause 2.3 apply to the Company as a replaceable rule within the meaning of the Corporations Act are displaced and do not apply to the Company except insofar as they are repeated in this Constitution.

3. Obligation of Members

3.1 Every Member undertakes to:

- (a) Promote and further the objects, interest, influence and standing of the Company;
- (b) Observe and be bound by this Constitution and any applicable rules, by-laws and policies of the Company and Tennis Australia in force from time to time; and
- (c) Require its Members to be bound by all applicable rules, regulations, by-laws and policies referred to in clause 4(c), as a condition of their membership, to the best of their ability.

3.2 By virtue of its membership with Tennis Australia, the Company agrees to adopt and abide by national by-laws and policies of Tennis Australia, as implemented and amended from time to time, including, but not limited to, the Member Protection Policy, the Anti-Doping Policy, the Disciplinary Policy and the Code of Behaviour Tournaments and Weekly Competitions. The Company, its Members and its officers are bound by each of these policies. Each Member of the Company agrees that all its members are also bound by each of these policies.

4. Objects

The objects for which the Company is established are to:

- (a) govern, promote and develop Tennis in New South Wales;
- (b) be the principal body for the governance of Tennis in New South Wales and to settle disputes relating to Tennis in New South Wales;
- (c) uphold and maintain the rules and regulations of Tennis in New South Wales;
- (d) organise, conduct and promote Tennis matches, tournaments, championships, events and activities in New South Wales;
- (e) construct, furnish and maintain any Tennis courts or other grounds, buildings or works for use in Tennis matches, tournaments, championships, events and activities in New South Wales;
- (f) assist and encourage communication between Members;
- (g) assist Members to promote and develop Tennis in New South Wales; and
- (h) do all things incidental to assisting in achieving the objects of the Company.

5. Assets and income of Company

5.1 Promotion of objects

- (a) All assets and income of the Company will be applied solely towards the promotion of the objects of the Company.
- (b) Any dealings with the assets and undertakings of the Company, other than in the ordinary course of business, must be approved by the Members.

5.2 No payments to Members

No assets or income of the Company will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the Members of the Company, provided that nothing in this clause 5 will prevent the payment in good faith of remuneration to any Member of the Company in return for any services actually rendered to the Company.

6. Membership and other rights

6.1 Eligibility for Membership

The Company may admit the following as Members:

- (a) Clubs
- (b) Associations;
- (c) Court Operators;
- (d) Honorary Life Members; and
- (e) any other person or groups of persons which conducts Tennis related activities of a kind or scale which the Board believes is sufficient to warrant membership.

6.2 Number of Members

The number of Members of the Company is unlimited.

6.3 Rights of Members

Members will have the right to attend, be heard and vote at any meetings of Members.

6.4 Different classes of Members

The Directors may from time to time allow further categories of membership of the Company.

6.5 Application for membership

- (a) Every application for membership must be lodged with the Secretary and must set out the name, address and occupation of the applicant together with a copy of the applicant's constitution or governing rules, if applicable.
- (b) Applications for membership must be made in writing on a form to be approved by the Board for that purpose and must be signed by the applicant.
- (c) The Board will consider the application and will in its absolute discretion:
 - (i) determine the admission or rejection of the applicant (and need not provide any reason for such decision); or
 - (ii) decide to call on the applicant to supply any evidence of eligibility that they consider reasonably necessary.
- (d) An applicant will be admitted to membership if a majority of the Directors present and entitled to vote at the Board meeting vote by resolution to admit the applicant.
- (e) If the Directors reject an application for membership, the Secretary must as soon as practicable, notify the applicant in writing that the application has been rejected.
- (f) If the Directors approve an application for membership, the Secretary must, as soon as practicable:
 - (i) notify the applicant in writing of approval for membership; and
 - (ii) request payment of the applicant's entrance fee and first annual subscription (if any) due under clause 6.6.
- (g) The Secretary must, within 30 days after receipt of the amounts referred to in clause 6.6 (or if no amounts are payable under clause 6.6, within 30 days after notification under clause 6.5(f)(i), enter the applicant's name on the register of Members.
- (h) If an amount due under clause 6.6 is not paid within 30 days after the date the applicant is notified of acceptance, the Directors may cancel the acceptance of the applicant for membership.

6.6 Entrance fee and annual subscription

- (a) The entrance fee and annual subscription payable by each Member (other than an Honorary Life Member) (if any) will be determined by the Board from time to time and may vary for each different class of Member (other than an Honorary Life Member).

- (b) All annual subscriptions will be due and payable at the times determined by the Board from time to time.
- (c) If a Member's (other than an Honorary Life Member) annual subscription remains unpaid for a period of 30 days after it falls due then the Member (other than an Honorary Life Member) will be sent a notice from the Secretary (**Notice**) requiring payment of the outstanding subscription within a period of 60 days after the Notice. If the subscription remains unpaid at the expiry of that 60 day period then the Member (other than an Honorary Life Member) will at that time automatically and without further notice cease to be a Member.

6.7 Honorary Life Members

The Board may recommend that any person who has in its opinion rendered long and distinguished service to the Company be granted the title of Honorary Life Member. The Company may in, general meeting, grant Honorary Life Membership to any such person upon receiving the relevant recommendation from the Board.

6.8 No transfer of membership

A right, privilege or obligation of a person by reason of membership of the Company:

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon the cessation of membership of the Company.

6.9 Register of Members

The Secretary will cause to be entered into the Register the name, address and voting entitlements of each Member, as supplied by the Member on their application for membership (or as granted by the rights attaching to their membership) and the Secretary must update the Register as and when required, in order to reflect changes to Members' details.

6.10 Cessation of membership

A Member will cease to be a Member:

- (a) if the Member resigns from the Company by giving at least 30 days' notice in writing to the Secretary;
- (b) if the Member ceases to satisfy all requirements for their respective category of membership;
- (c) if a liquidator is appointed in connection with the winding up of the Member;
- (d) if a receiver, receiver and manager, official manager, trustee, administrator, other controller or similar official is appointed, or steps are taken for such appointment over the assets of the Member; or
- (e) if an order is made by a Court for the winding up or deregistration of the Member.

6.11 No claim against the Company

A Member whose membership ceases does not have any claim against the Company or the Directors for damages or otherwise.

7. Contribution of Members

- (a) The liability of Members of the Company is limited.
- (b) Every Member undertakes to contribute to the assets of the Company, in the event of the Company being wound up while they are a Member or within 1 year after they cease to be a Member, for the payment of debts and liabilities of the Company incurred before the time at which the Member ceased to be a Member and for the costs, charges and expenses of winding up and for the adjustment of rights of the contributories among themselves, such amount as may be required not exceeding \$20.00.

8. Powers of attorney

- (a) If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the attorney to the Company for notation.
- (b) If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- (c) The Company may ask for whatever evidence it thinks appropriate to satisfy itself that the power of attorney is effective and continues to be in force.

9. Representatives

- (a) A Member that is not a natural person may by written notice to the Secretary:
 - (i) appoint a natural person to act as its Representative in all matters as permitted by the Corporations Act; and
 - (ii) remove a Representative.
- (b) A Representative is entitled to:
 - (i) exercise at a general meeting all the powers which the Member which appointed them could exercise if it were a natural person; and
 - (ii) be counted towards a quorum on the basis that the relevant Member is to be considered personally present at a general meeting by its Representative;
- (c) A Representative may be nominated as a Director.
- (d) A certificate executed in accordance with the Corporations Act is rebuttable evidence of the appointment or of the termination of the appointment (as appropriate) of the Representative.
- (e) If written notice of the appointment of a Representative has not been received under clause 9(a), the Chairperson of a general meeting may allow a Representative to vote on the condition that they subsequently establish their status as a Representative within a period prescribed by and to the satisfaction of the Chairperson of the general meeting.
- (f) The appointment of a Representative may set out restrictions on the Representative's powers.

10. General meetings

10.1 Annual general meeting

The Company must hold an annual general meeting in accordance with the Corporations Act.

10.2 Power to convene general meeting

The Directors may, whenever they think fit, convene a general meeting of the Members. The Directors must convene a general meeting at the request of 5% or more of the Members.

10.3 Notice period

- (a) Subject to the Corporations Act and clause 10.3(b), the Company must give at least 21 days notice of general meetings (including annual general meetings).
- (b) The Company may call, on shorter notice than that specified in clause 10.3(a):
 - (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
 - (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.

10.4 Notice of general meetings

Written notice of a general meeting must be given as provided in this Constitution to:

- (a) every Member;
- (b) every Director; and
- (c) the Auditor (if any).

10.5 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify the place, date and time for the meeting;
- (b) state the general nature of the business to be transacted at the meeting;
- (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and
- (d) contain a statement of:
 - (i) each Member's right to appoint a proxy; and
 - (ii) the fact that a proxy need not be a Member of the Company.

10.6 Content of notice of annual general meeting

The notice of an annual general meeting must state that the business to be transacted at the meeting includes:

- (a) the consideration of the financial statements and the reports of the Directors and Auditor (if any);
- (b) the election of Directors and other officers in place of those retiring; and
- (c) any other business which, under this Constitution or the Corporations Act, is required to be transacted at an annual general meeting.

10.7 Nature of business

All business that is transacted at a general meeting will be special, with the exception of:

- (a) the receipt of the accounts, balance sheets, and the reports of the Directors and Auditors; and
- (b) the election of the Directors and Auditors (if any).

10.8 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

10.9 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or
- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

10.10 Directors' right to attend

Each Director is entitled to attend any general meeting, to receive all notices of and other communications relating to any general meeting which a Member is entitled to receive and to be heard at any general meeting on any part of the business of the meeting.

11. Proceedings at general meetings

11.1 Use of technology

The Company may hold a meeting at 2 or more venues using any technology that gives Members a reasonable opportunity to participate.

11.2 Quorum

- (a) Except as otherwise provided in this Constitution, the quorum for a general meeting of the Company is at least 15 Members, present in person or by Representative, proxy or attorney and the quorum must be present at all times during the meeting.
- (b) No business will be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (c) For the purpose of determining whether a quorum is present each person attending as a Representative is deemed to be a Member.

11.3 Effect of no quorum

If a quorum of the Company's Members is not present within half an hour after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the same time and place in the next week, or if this is unacceptable, to a day, time and place that the Directors specify, except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and
 - (ii) if at such adjourned meeting the quorum is not present, those Members who are present shall be the quorum and may transact the business for which the meeting was called.

11.4 Chairperson

- (a) Meetings of the Members will be chaired by the President or in the President's absence, the Vice-President.
- (b) If the President (or Vice-President, as the case may be) is not present within 15 minutes after the time appointed for the relevant meeting, then (for that meeting only):
 - (i) a Director present at the meeting who is chosen by a majority of Members present; or
 - (ii) if there is no Director present or willing to take the chair, a Member or Member's Representative, attorney or proxy present at the meeting who is chosen by a majority of the Members present, will chair the meeting.
- (c) If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question, and the chairperson's decision is final.

12. Voting at general meetings

12.1 Voting

- (a) A resolution put to the vote at a general meeting must be decided on a show of hands of Members unless a poll is demanded.
- (b) Before a vote is taken, the chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) On a show of hands, a declaration by the chairperson of the meeting is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution.

12.2 Voting rights

Whether on a show of hands or on a poll:

- (a) each Member (other than an Honorary Life Member) has that number of votes as is equal to the number of Registered Tennis Players who are registered with the Company by the relevant Member as at the date of the notice of the meeting (as recorded in the Register);
- (b) each **Honorary** Life Member has one vote; and
- (c) each Member entitled to vote may vote in person or by proxy, attorney or Representative.

12.3 Voting by poll

- (a) A poll may be demanded by:
 - (i) the Chairperson; or
 - (ii) any Member present (by proxy, attorney or Representative) and entitled to vote on the resolution; or
- (b) A poll may be demanded:
 - (i) before a vote is taken; or
 - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) The demand for a poll may be withdrawn.
- (d) If a poll is duly demanded, it must be taken in such manner and, subject to clause 12.3(e), either immediately or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.
- (f) The demand for a poll does not prevent a meeting continuing for the transaction of any business other than the question on which a poll has been demanded.

12.4 Casting vote of chair

In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded has a casting vote.

12.5 Objection to qualification of a voter and votes counted in error

- (a) An objection to a person's right to vote at a general meeting:
 - (i) may only be raised at a general meeting or adjourned meeting at which the vote objected to is given or tendered; and
 - (ii) must be determined by the chairperson of the meeting, whose decision is final.
- (b) If any vote is counted at a general meeting which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (i) detected at the same meeting; and
 - (ii) of sufficient magnitude, in the opinion of the chairperson, as to invalidate the resolution.
- (c) A vote allowed despite an objection referred to in clause 12.5(a) or being detected under clause 12.5(b)(i) is valid for all purposes.

13. Proxies

13.1 Who can appoint a proxy

A Member who is entitled to attend and vote at a general meeting may appoint a person as that Member's proxy to attend and vote for that Member at a meeting of the Company. A proxy need not be a Member of the Company.

13.2 Execution and form of proxies

An instrument appointing a proxy:

- (a) may be contained in a facsimile or email attachment;
- (b) must be in writing under seal or signed by an officer or attorney duly authorised;
- (c) may specify the manner in which the proxy is to exercise their vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument;
- (d) is deemed to confer authority to demand or join in demanding a poll; and
- (e) must (except in the case of proxies appointed under power of attorney), as nearly as the circumstances permit, be in the form set out in the schedule or in such other form as the Directors prescribe.

13.3 Member's attorney

A Member may appoint an attorney to act, or to appoint a proxy to act, at a general meeting. If the appointor is an individual, the power of attorney must be signed in the presence of at least 1 witness.

13.4 Lodgement of proxies and powers of attorney

- (a) If a Member appoints a proxy or an attorney, the following documents must be given to the Company at the Office or at the place specified for the purpose in the notice calling the general meeting:
 - (i) the proxy's appointment;
 - (ii) if the appointment is signed by the appointor's attorney, the authority under which the form was signed or a certified copy of the authority; and
 - (iii) in the case of an attorney, the power of attorney or a certified copy of it.
- (b) The appointment of a proxy or an attorney is valid for a meeting if the appointment and any authority are given to the Company at least 48 hours before the general meeting at which the proxy is to be used.

13.5 Validity of proxy vote

A vote cast in accordance with the terms of an instrument of proxy or of a power of attorney is valid if no notice in writing of:

- (a) the previous death of the appointing Member;
- (b) the mental incapacity of the appointing Member;
- (c) the revocation of the proxy's appointment; or
- (d) the revocation of the authority under which the proxy was appointed,

has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used or exercised.

14. Board

14.1 Number and appointment of Directors

- (a) At the annual general meeting of the Company in 2009 and at each subsequent annual general meeting, the Members must, in the following order, elect Directors to the extent necessary to ensure that the Company has the following Directors:
 - (i) President;
 - (ii) Vice President; and,
 - (iii) 5 other Directors, being:
 - (A) 2 Directors from nominations proposed by a Club or Association located in the metropolitan area of Sydney;
 - (B) 2 Directors from nominations proposed by a Club or Association located in any of the six regional areas of New South Wales outside the boundaries of metropolitan Sydney; and
 - (C) 1 Director from nominations proposed by Court Operators.

14.2 Appointed Directors

- (a) The Board, by majority resolution, may appoint up to 3 Independent Directors to complement the skills of the Member elected Board.
- (b) Any Director appointed under Clause 14.2 will be appointed for a period to be determined by the Board not exceeding two years and at the end of that period they will be eligible for reappointment by the Board.

14.3 Independent Director

Any Independent Director shall within 14 days of such election or appointment to the position of Independent Director retire from any position then held as a Representative, employee or officer of the Company or a Member.

14.4 Nomination of Directors

Subject to the Corporations Act 2001 (Cth) and this Constitution, a person will be eligible for nomination as a Director provided that a written nomination signed by two Members,

together with the person's consent in writing to their appointment, is received by the Secretary at least 28 days prior to the date fixed for the holding of the annual general meeting.

14.5 Term of Office

- (a) Subject to this clause 14.5 and clause 14.6, all Directors appointed at or after the 2009 annual general meeting shall hold office for a term of 2 years.
- (b) Directors appointed under clause 14.2 shall hold office for a term determined by the Board up to a maximum of 2 years.
- (c) Subject to clauses 14.5(f) and (g) one of the Directors appointed under clause 14.1(c) (iii) (A) at the 2009 annual general meeting shall hold office for a term of 2 years and the other will hold office for a term of 1 year.
- (d) Subject to clauses 14.5(f) and (g), one of the Directors appointed under clause 14.1(c) (iii) (B) at the 2009 annual general meeting shall hold office for a term of 2 years and the other will hold office for a term of 1 year.
- (e) If a Director has served 9 or more consecutive years in office immediately prior to their retirement (including any period prior to the adoption of this Constitution), that person will be eligible to be appointed as Director, but only for a term of 1 year.
- (f) For the purposes of determining the term of office for each of the directors appointed under clause 14.1(c) (iii) (A) and clause 14.1(c) (iii) (B), the Director which has been longest serving in office shall hold office following the annual general meeting in 2009 for a term of 1 year and the other Director appointed under each of clause 14.1(c) (iii) (A) and clause 14.1(c) (iii) (B) shall hold office for a term of 2 years.
- (g) As between Directors appointed under clause 14.1(c) (iii) (A) and Clause 14.1(c) (iii) (B) that have been in office an equal length of time, the Director to hold office for the term of 2 years shall be determined by lot in a manner deemed appropriate by the President.

14.6 Appointment to fill casual vacancy

- (a) The Board may at any time appoint any person to be a Director to fill a casual vacancy.
- (b) The Board may expressly resolve not to fill a casual vacancy.
- (c) Any Director appointed to fill a casual vacancy will hold office only until the end of the term of the vacating Director but will be eligible to stand for re-election.

14.7 Removal of Directors

The Members may remove any Director from office in accordance with the Corporations Act and appoint another person as a Director instead.

14.8 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act, the office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of this Constitution;

- (b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (c) is prohibited from being a Director by reason of any order made under the Corporations Act;
- (d) becomes physically or mentally incapable of performing the Director's duties (in the opinion of all other Directors);
- (e) resigns by written notice to the Company; or
- (f) is absent from Directors meetings without the consent of the other Directors for three (3) successive meetings.

15. Powers and duties of Directors

15.1 General management power

Subject to the Corporations Act, this Constitution and any resolution of the Company, the Directors:

- (a) will manage the governance of the Company; and
- (b) may exercise all such powers of the Company that are not, by the Corporations Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
 - (i) no resolution of the Company in general meeting will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the Directors of the Company's main undertaking or a substantial proportion of its assets will be subject to prior approval by the Company in general meeting.

15.2 Attorneys

- (a) The Directors may appoint any person or persons to be the attorney or attorneys of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

15.3 Power to borrow and give security

Without limiting clause 15.1, the Directors may exercise all of the Company's powers to borrow money (with or without giving security for it), charge any property or business or give any other security for a debt, liability or obligation of the Company.

15.4 Director may act in professional capacity

- (a) Subject to the Corporations Act and clause 15.4(b), any Director (or the Director's firm) may act in a professional capacity for the Company and the Director (or the

Director's firm) is entitled to remuneration for professional services as if the Director were not a Director.

- (b) A Director (or the Director's firm) must not act as the Company's auditor.

15.5 Disciplinary powers of the Board

- (a) If any Member wilfully refuses or neglects to comply with the provisions of this Constitution or is guilty of any conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company, the Board will have the power by resolution to censure or fine the Member.
- (b) Any action taken by the Board under clause 15.5(a) is effective only after the Member has been given 30 days notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed.

15.6 Payments to Directors

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director where the amount payable does not exceed an amount previously approved by the Directors;
- (b) for any goods or services provided to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the goods or services has the prior approval of the Directors and where the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable payment for the goods or services; and
- (c) relating to an indemnity in favour of the Director and permitted by the relevant section of the Corporations Act or a contract of insurance permitted by the relevant section of the Corporations Act.

16. Proceedings of Directors

16.1 Directors meetings

- (a) The Directors must meet as many times as necessary, but not less than six (6) times per year and may regulate their meetings as they think fit.
- (b) A Director may, and the Secretary must if required by a Director, convene a Directors' meeting.

16.2 Circulating resolutions

- (a) Subject to clauses 16.2(b) and 16.2(d) and the provisions of Section 248A of Corporations Act 2001 (Cth) as amended, the Directors may pass a resolution without a Directors' meeting being held if the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document (or otherwise express their written approval in favour of the resolution) within 24 hours after such document or proposed resolution is issued.
- (b) If the proposed resolution is accompanied by a statement specifying that Directors cannot approve the resolution until after a specified period for any discussion on the

proposed resolution (**Discussion Period**), any approval given within the Discussion Period will be disregarded.

- (c) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (d) If the resolution has not been passed within 21 days after the day on which it was first received by a Director, the circular resolution will lapse and will be deemed not to have been passed, even if subsequently signed by a majority of Directors entitled to vote on the resolution.

16.3 Telephone and other meetings

Without limiting the power of the Directors to regulate their meetings as they think fit, a meeting of Directors or committee of Directors may be held where 1 or more of the Directors is not physically present at the meeting, provided that:

- (a) all Directors consent to the calling and the holding of the meeting by means of telephone or other form of communication;
- (b) all Directors participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously by means of the agreed form of communication;
- (c) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed on or laid down from time to time by the Directors;
- (d) in the event that a failure in communications prevents clause 16.3(b) from being satisfied by that number of Directors which constitutes a quorum, then the meeting will be suspended until clause 16.3(b) is satisfied again. If clause 16.3(b) is not satisfied within 15 minutes from the time the meeting was interrupted, the meeting will be deemed to have terminated; and
- (e) any meeting held where 1 or more of the Directors is not physically present will be deemed to be held at the location specified in the notice of meeting provided a Director is present at that location. If no Director is present at the location specified, the meeting will be deemed to be held at the location where the Chairperson of the meeting is located.

16.4 Directors resolutions

- (a) At a meeting of Directors each Director present and entitled to vote may cast one vote on each proposed resolution.
- (b) Subject to this Constitution, a resolution of the Directors is to be decided by a majority of the votes of Directors present and entitled to vote on the resolution.
- (c) In case of an equality of votes, the Chairperson of the meeting has a casting vote.

16.5 Minutes

The Directors must cause minutes of meetings to be made and kept in accordance with the Corporations Act.

16.6 Director's personal interests

If a Director has a material personal interest in a matter that relates to the affairs of the Company (other than an interest that does not have to be disclosed under the Corporations

Act) and the Director discloses the nature and extent of the interest and its relation to the affairs of the Company to the other Directors, in accordance with the Corporations Act, then the Director must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the Corporations Act to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

16.7 Quorum

- (a) At a meeting of Directors properly convened, the number of Directors whose presence is necessary to constitute a quorum is a majority of Directors in office at the relevant time.
- (b) If the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or for the purpose of convening a general meeting of the Company.

16.8 Alternate Directors

No Director is entitled to appoint an Alternate Director to act in his place.

16.9 Chairperson

Meetings of the Directors will be chaired by:

- (a) the President, or in the President's absence, the Vice-President.; or
- (b) if neither the President nor the Vice-President are present within 15 minutes after the time appointed for the relevant meeting, then (until the President or Vice-President arrives) a Director present at that meeting who is chosen by the majority of Directors present.

16.10 Delegation to Committees

- (a) The Directors may delegate any of their powers to a committee or committees appointed by the Board. The standing committees of the Company will include:
 - (i) the Audit and Risk committee;
 - (ii) the Remuneration committee;
 - (iii) Tennis Country; and

- (iv) Tennis Sydney.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the Directors. The effect of the committee exercising a power in this way is the same as if it had been exercised by the Directors.
- (c) The Board will elect the chairperson of each committee.
- (d) Where a meeting of a committee is held and:
 - (i) a chairperson of the committee has not already been elected to chair that meeting under clause 16.10(c); or
 - (ii) the previously elected chairperson of the committee is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present may elect one of their number to be chairperson of the meeting.
- (e) A committee may meet and adjourn as it thinks fit unless otherwise directed by the Directors.
- (f) A quorum for committee meetings will be a majority of committee members of the relevant committee at the relevant time.
- (g) Questions arising at a meeting of a committee must be determined by a majority of votes of the members present and entitled to vote.
- (h) In the case of an equality of votes, the chairperson does not have a casting vote.

16.11 Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

16.12 Board confidentiality

Business proceedings at Board and committee meetings are confidential to the Company and are not to be disclosed except as specifically authorised by the Board or required by law or where such information has been officially released as a public record.

17. By laws and policies

The Directors have the power to make, repeal and amend:

- (a) by-laws which in their opinion are necessary or desirable to regulate and manage the affairs and the establishment and conduct of the Company and its committees; and
- (b) policies in relation to the proper management, administration and progress of Tennis in New South Wales,

provided that such by-laws and policies are consistent with this Constitution.

18. Secretary

A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine, and need not be a Member.

19. Chief Executive Officer

- (a) The Chief Executive Officer of the Company will be appointed by the Directors for a term and at remuneration and on conditions determined by them.
- (b) The Chief Executive Officer is entitled to attend and be heard on any matter at all Directors' and general meetings, but is not entitled to vote.
- (c) The Chief Executive Officer must ensure notices, agendas and minutes for all Board meetings and Members' meetings are prepared and distributed as required.
- (d) Subject to the Corporations Act, this Constitution and the delegations of the Board, the Chief Executive Officer has the power to perform such things as are necessary or desirable for the proper management of the Company.
- (e) Any prior act of the Chief Executive Officer will not be invalidated by a resolution of the Board.
- (f) Subject to the delegations of the Board and the approved budget, the Chief Executive Officer may employ such personnel as deemed necessary for the continued operations of the Company.
- (g) The Chief Executive Officer must provide regular reports to the Board on all Company activities.
- (h) The Directors may, subject to the terms of the Chief Executive Officer's employment contract, suspend, remove or dismiss the Chief Executive Officer.

20. Execution of documents

20.1 Use of seal optional

Except where required by the Corporations Act, the Company need not have or use the common seal to execute documents or deeds. The Directors may resolve whether or not the Company is to have or use a common seal.

20.2 Execution without the seal

The Company may validly execute a document (including a deed) without using the common seal if the document is signed by a Director and countersigned by another Director, Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

20.3 Execution using the seal

The Company may validly execute a document (including a deed) by fixing the common seal to the document and the fixing being witnessed by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

20.4 Execution by authorised persons

Clauses 20.2 and 20.3 do not limit the ability of the Directors to authorise a Director, or other person who is not an officer of the Company, to execute a document for and on behalf of the Company.

21. Inspection of records

A Member does not have the right to inspect any document of the Company except as provided by the Corporations Act or authorised by the Directors or by the Company in general meeting.

22. Notices

22.1 Notices in writing

Any notice given by the Company to any Member must be:

- (a) in writing, legible and in English; and
- (b) signed by an officer of the Company or in any way authorised by the Board.

22.2 Service

The Company must give a notice to any Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member's address as shown in the Register or an alternative address (if any) supplied by the Member to the Company for the purpose of giving notices;
- (c) sending it by facsimile to the facsimile number (if any) nominated by the Member; or
- (d) sending it by email to the email address (if any) nominated by the Member.

22.3 Deemed receipt

A notice is deemed to be duly given or made in the case of:

- (a) delivery in person, when delivered;
- (b) delivery by post:
 - (i) in Australia to an Australian address, on the third day after posting; or
 - (ii) in any other case, on the tenth day after posting; or
- (c) delivery by facsimile, on a transmission report being printed by the Company's facsimile machine stating that the document has been sent to the Member's facsimile number,

but if delivery is not made before 5.00 pm on a day it will be deemed to be received at 9.00 am on the next day.

23. Audit and accounts

23.1 Company must keep accounts

The Board must cause the Chief Executive Officer and the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited,

and must allow a Director and the Company's auditor to inspect those records at all reasonable times.

23.2 Audit

The Board must cause the Company's financial report for each financial year to be audited and obtain an auditor's report.

23.3 Financial reporting

The Board must cause the Company to prepare a financial report and a Director's report that comply with the Corporations Act and must report to the Members in accordance with the Corporations Act no later than the deadline set by the Corporations Act.

23.4 Conclusive reports

Audited financial reports tabled before the Company in general meetings are conclusive except as regards errors notified to the Company within 3 months after the relevant general meeting. If the Company receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

24. Winding up

If upon the winding up or dissolution of the Company, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same will not be paid to or distributed among the Members of the Company but will be given or transferred to some other institution or institutions, organisation or organisations having objects similar to the objects of the Company, and which prohibits the distribution of its income and property amongst its Members, to an extent at least as great as imposed on the Company under or by virtue of clause 5 and determined by a Special Resolution of Members passed at a general meeting or in default thereof by such judge of the Supreme Court of New South Wales as may have or acquires jurisdiction in the matter.

25. Indemnity

25.1 Interpretation

In this clause 25:

- (a) **proceedings** means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and

- (b) **officer** has the meaning given to that term in section 9 of the Corporations Act.

25.2 Scope of indemnity

In addition to any other indemnity provided to an officer of the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act:

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;
- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted; and
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Corporations Act to the officer by the Court; and
- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a Related Body Corporate) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

25.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Corporations Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

26. Variation or amendment of Constitution

This Constitution may be varied or amended from time to time in accordance with the Corporations Act.

Schedule

Proxy form
Tennis New South Wales Ltd
General meeting
[date]

I,

of

being a Member of the Company appoint

of

or if no person is named, the chairperson of the general meeting as my proxy to vote and act for me and on my behalf at the general meeting of members of the Company to be held on *[date]* and any other day to which that general meeting is adjourned or postponed.

My proxy is authorised to exercise my voting rights and I direct my proxy to vote in the following manner:

No	Resolution <i>[list in sequence of ordinary and special business]</i>	For	Against	Abstain

If you have appointed the chairperson as your proxy and you do not wish to direct the chairperson how to vote, please place a mark in the box (below).

By marking this box, you acknowledge that the Chairperson may exercise your proxy even if they have an interest in the outcome of the resolution and votes cast by the chairperson other than as proxy holder will be disregarded because of that interest.

The chairperson intends to vote in favour of/against the resolutions *[insert details]*.

.....

Dated

.....

Signed

Signature of Member (note if the Member is a company, the proxy form should be signed in accordance with the Member company's constitution and with the *Corporations Act 2001 (Cth)*.)